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MAR 13 2006

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

10 THE STATE OF ARIZONA *ex rel.* TERRY
11 GODDARD, the Attorney General; and THE CIVIL
RIGHTS DIVISION OF THE ARIZONA
12 DEPARTMENT OF LAW,

Plaintiff,

vs.

15 SUNLAND VILLAGE EAST ASSOCIATION, a
16 non-profit Arizona corporation, dba SUNLAND
17 VILLAGE EAST HOMEOWNERS ASSOCIATION,

Defendant.

No. CV2006-003935

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

(Non-classified Civil)

19 Plaintiff, the State of Arizona *ex rel.* Terry Goddard, the Attorney General, and the Civil Rights
20 Division of the Arizona Department of Law, alleges as follows:

INTRODUCTION

22 This is an action brought under the Arizona Fair Housing Act to correct an unlawful housing
23 practice, provide appropriate relief to aggrieved persons, and vindicate the public interest.
24 Specifically, Defendant Sunland Village East Association, dba Sunland Village East Homeowners
25 Association, through its board of directors and administrative staff (referred to here as "Defendant"),
26

1 manages the business and affairs of the homeowners association for Sunland Village East housing
2 development located in Mesa, Arizona. Plaintiff brings this matter to redress the injury sustained by
3 the LDS Family Home Evening Group, Darlene Rich and Raymond Rich, a married couple, who
4 participate in the LDS Family Home Evening Group, and all other residents living in the Sunland
5 Village East housing development who participate in the LDS Family Home Evening Group.
6 Specifically, Plaintiff contends that Defendant has, for about one year, adopted and applied a facially
7 discriminatory policy regulating homeowner use of community room facilities and restricted the
8 availability and use of the community room facilities for members of the LDS Family Home Evening
9 Group because of discrimination on the basis of religion. In so doing, Plaintiff contend that Defendant
10 has violated the Arizona Fair Housing Act's prohibition on subjecting persons to different terms,
11 conditions, and privileges in the provision of facilities in connection with the sale or rental of
12 dwellings because of the aggrieved parties' religion.

13 JURISDICTION AND VENUE

14 1. Plaintiff, the Civil Rights Division of the Arizona Department of Law ("the Division")
15 is an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona
16 Civil Rights Act, A.R.S. § 41-1401, *et seq.*, including the Arizona Fair Housing Act ("AFHA").

17 2. Plaintiff brings this action on behalf of the State of Arizona and on behalf of the LDS
18 Family Home Evening Group and its members who have been discriminated against on the basis of
19 religion in violation of the AFHA. The LDS Family Home Evening Group is an unincorporated
20 association comprised of its chairpersons, Darlene and Raymond Rich, and additional members, most
21 of who are members of the Church of Jesus Christ of Latter Day Saints ("LDS Church"). The LDS
22 Family Home Evening Group, Darlene and Raymond Rich, and the other members of the LDS Family
23 Home Evening Group are "aggrieved persons" within the meaning of A.R.S. § 41-1491(1).

24 3. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1491.34 and § 41-
25 1491.35

26 4. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).
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1 **PARTIES**

2 5. At all relevant times, Defendant Sunland Village East Association was an Arizona non-
3 profit corporation conducting the business of Sunland Village East and managing the community areas
4 and facilities of the Sunland Village East housing development located in Mesa, Arizona. Among
5 other things, Defendant performed acts necessary to maintain, operate and pay all of the expenses of, or
6 relating to, the community facilities in Sunland Village East, including setting rules and fees for use of
7 the community facilities, accepting and processing requests for room use, making decisions about
8 approval, denying and suspending room use privileges, and addressing complaints regarding facility
9 use.

10 6. At all relevant times, the Defendant acted through its board of directors including, Jan
11 Winkler, President; Tom Gearhart, Vice-President; Bill Wrigley, Treasurer; Les Johnson, Secretary; and
12 members Joseph Paradiso, LeRoy Neufeld and Orland Klassen.

13 7. At all relevant times, Kathleen Kay Karmolinski was Defendant's on-site Community
14 Manager and actual and apparent agent.

15 8. At all relevant times, Rheba Hysell was Defendant's on-site Activity Director and actual
16 and apparent agent.

17 **BACKGROUND**

18 9. The LDS Family Home Evening Group is a group of about 60 couples who are residents
19 of Sunland Village East. For the past 12 years, the LDS Family Home Evening Group has met once
20 monthly in Defendant's community rooms for social activities to enjoy potlucks, entertainment, and
21 guest speakers.

22 10. At all relevant times, Darlene and Raymond Rich were the chairpersons of the LDS
23 Family Home Evening Group.

24 11. Darlene and Raymond Rich, as well as most of the persons who regularly attended the
25 LDS Family Home Evening Group, are members of the Church of Jesus Christ of Latter Day Saints
26 ("LDS Church").
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12. The LDS Family Home Evening Group is a tradition with its roots in the LDS Church of setting aside time each week to spend together as a family. Sunland Village East is a retirement community and is comprised mostly of retired individuals and couples, and the LDS Family Home Evening Group serves as an extended social network for people who may not have families nearby and want to participate in the activities.

13. For about 12 years, the LDS Family Home Evening Group met on one regularly scheduled Monday each month in community rooms at Sunland Village East using the procedures for reserving community rooms.

14. The LDS Family Home Evening Group, as well as other groups of residents using the facilities, was not charged by the Defendant to use the community facilities for events open to the other residents.

15. In January 2005, Darlene Rich made a room reservation request on behalf of the LDS Family Home Evening Group for community room use during the next request cycle of June 1, 2005 through May 31, 2006, using Defendant's existing procedures for reserving community rooms.

16. On March 9, 2005, Defendant, through Rheba Hysell, its Activities Director and authorized agent, sent a letter to Darlene Rich in response to the room usage request notifying her that the LDS Family Home Evening Group would be charged for their future room use and providing a copy of the fee structure. In the March 9, 2005 letter Defendant stated it was taking this action because the LDS Family Home Evening Group is "not a board sanctioned club or event, does include people from outside the village, has not been 'grandfathered in,' and does not allow all residents of SVE to attend."

17. On or about March 16, 2005, Darlene and Raymond Rich sent a letter to Sunland Village East and Board President Jan Winkler to request that the decision be reconsidered, and also to submit information that the LDS Family Home Evening Group satisfied the requirements for reserving community rooms as a social group without cost under the new policy.

18. Defendant did not rescind its decision and imposed a \$75 fee for each use of the community facility of Sunland East Village by the LDS Family Home Evening Group.

1 19. In or about March 2005, Defendant denied the LDS Family Home Evening Group use of
2 the Mesa Verde room previously used for the monthly meetings and moved the Group to the less
3 desirable auditorium.

4 20. Defendant knew that the members of the LDS Family Home Evening Group were
5 primarily members of the LDS Church and that the concept of a LDS Family Home Evening Group was
6 a tradition of the LDS Church.

7 21. In or about April 2005, several members of the LDS Family Home Evening Group met
8 with Defendant and explained that its group did not include non-residents of Sunland Village East,
9 except for an occasional guest and entertainer, was open to all community residents, and had a social
10 purpose and thus, should be allowed to use the community facilities without a charge as other groups or
11 clubs.

12 22. On June 3, 2005, the Defendant passed a revised room use policy, a true and correct
13 copy of which is attached to this Complaint as Exhibit A. The policy states, in pertinent part,

14 It has been generally understood over the years that any club comprised
15 only of SVE residents (no outsiders) should not have to pay any fees to
16 use the facilities. Each resident owns an interest in the Association. . .
17 grounds, buildings, etc. . . There will be no usage fee for any club or
18 organization in SVE as long as membership is open to all residents of the
19 association in good standing. RELIGIOUS: We can no longer
20 accommodate any specific religious groups, and room usage is not
21 available. Our Village Chapel, Chapel board meetings, choir practice and
22 Bible classes which are non-denomination are accepted as long as
23 participation is available to all SVE residents.

24 23. On July 28, 2005 Defendant, through its Activities Director and authorized agent Rheba
25 Hysell, sent a letter to Darlene Rich informing her group of the revised policy and that effective
26 immediately the LDS Family Home Evening Group would no longer have use of any community rooms
27 or facilities of Sunland Village East.
28

1 24. On September 13, 2005, Darlene and Raymond Rich filed an administrative complaint
2 with the Division's Compliance Section alleging housing discrimination against the LDS Family Home
3 Evening Group on the basis of religion in violation of the AFHA.

4 25. The Division's Compliance Section investigated the complaint made by Darlene and
5 Raymond Rich on behalf of the LDS Family Home Evening Group pursuant to A.R.S. § 41-1491.24.
6

7 26. During the administrative proceedings, Defendant permitted the LDS Family Home
8 Evening Group to schedule a holiday potluck on December 17, 2005.

9 27. The potluck held by the LDS Family Home Evening Group on December 17, 2006 was
10 social in nature and was open to all residents of Sunland Village East.
11

12 28. Defendant sent two residents to the December 17, 2005 potluck for the purpose of
13 reporting to Defendant whether the function was religious or social. Defendant did not have a policy or
14 practice of sending agents to meetings of other groups to report back to the Defendant.

15 29 On or about December 19, 2005, Defendant, through its Community Manager and
16 authorized agent Kathleen Karmolinski, sent a letter to Darlene Rich notifying her that Defendant had
17 suspended the LDS Family Home Evening Group from future use of the community facilities. The
18 suspension was for an indefinite duration.
19

20 30. Defendant stated the suspension of the use of its community facilities was for violation
21 of rules regarding room usage. The rules that Defendant alleged were violated by the LDS Family
22 Home Evening Group were not in writing in Defendant's Room Usage Policy.
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24 31. Defendant has not restored the community facility's use privileges to the LDS Family
25 Home Evening Group.
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32. The Division's Compliance Section investigated the allegations in the administrative complaint and found reasonable cause to believe that Defendant had a facially discriminatory policy that excluded groups from using its community facilities because of a religious affiliation, and that Defendant subjected the members of the LDS Family Home Evening Group to different terms and conditions and actually excluded that group from use of the community facilities because of religious affiliation.

33. On February 14, 2006, the Division's Compliance Section issued a reasonable cause determination letter.

34. The Division undertook conciliation efforts but a conciliation agreement was not reached within thirty (30) days after issuance of the reasonable cause determination.

Statement of Claim

**(Discrimination in Violation of A.R.S. § 41-1491.14,
Arizona Fair Housing Act, Relating to Discrimination in the Terms and Conditions of Provision
of Facilities in Connection with Sale or Rental of Dwelling)**

35. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 34 of this Complaint.

36. During the relevant time, Darlene and Raymond Rich and the other members of the LDS Family Home Evening Group resided in dwellings that they purchased or rented at Sunland Village East.

37. During the relevant time period, Defendant managed the community facilities in connection with the sale or rental of "dwellings" within the meaning of A.R.S. § 41-1491(7) of the AFHA.

38. Under A.R.S. § 41-1491.14(B) of the AFHA, a person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental, because of religion.

39. Defendant adopted a facially discriminatory policy that denies the use of community facilities to groups because of religion.

40. Defendant restricted the use, availability and imposed different terms and conditions under which the community facilities at Sunland Village East could be used by the LDS Family Home Evening Group for social activities because of religious discrimination and also denied the use of the community facilities, in violation of the AFHA.

41. As a result of Defendant's discrimination, Darlene and Raymond Rich and the other residents of Sunland Village East who regularly participate in the LDS Family Home Evening Group have been refused use of community rooms and facilities and subjected to different terms and conditions for use of community facilities based on religion. Darlene and Raymond Rich and the residents who participate in the LDS Family Home Evening Group have suffered actual damages because of Defendant's conduct, including damages for emotional distress and loss of civil rights are entitled and should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-1491.34(C).

42. Plaintiff is also entitled to injunctive relief against Defendant's actions pursuant to A.R.S. § 41-1491.34(C).

43. Because subjecting a person to different terms and conditions for use of facilities in connection with the sale or rental of dwellings because of that person's religion raises an issue of general public importance, Plaintiff is also entitled to relief against Defendant's actions pursuant to A.R.S. § 41-1491.35.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

A. Enter judgment on behalf of Plaintiff, finding that Defendant unlawfully discriminated against Darlene and Raymond Rich and the members of the LDS Family Home Evening Group because of religion, in violation of the AFHA.

1 B. Grant a permanent injunction prohibiting Defendant, its successors, assigns and all
2 persons in active concert or participation with Defendant, from engaging in any housing practice that
3 discriminates on the basis of religion in violation of the AFHA.

4 C. Assess a statutory civil penalty against Defendant to vindicate the public interest in an
5 amount not to exceed fifty thousand dollars (\$50,000.00) for the first violation pursuant to A.R.S. §
6 41-1491.35.

7 D. Order Defendant to make the aggrieved parties whole and award them actual and
8 punitive damages in amounts to be determined at trial.

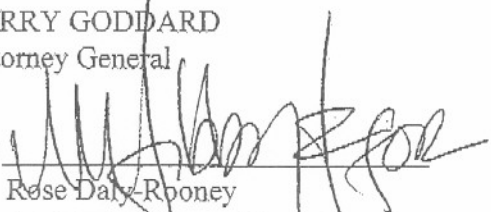
9 E. Order Plaintiff to monitor Defendant's compliance with the AFHA.

10 F. Grant judgment and award payment to Plaintiff for its costs incurred in bringing this
11 action, including its taxable costs, and its costs in monitoring Defendant's future compliance with the
12 AFHA.

13 G. Grant such other and further relief as this Court may deem just and proper in the public
14 interest.

15 Dated this 13th day of March, 2006.

16 TERRY GODDARD
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18 By 
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